

REMARKS

Claims 1-19 are pending in the Application and are now presented for examination.

Claims 1, 2, 7, 8, 14 and 15 have been amended solely to place these claims in better form and are not being made in light of the cited prior art. Claims 1, 7 and 14 are independent.

On page 2 of the Office Action, Claims 1-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Munshi (US Patent 7,010,590) in view of Zhang et al. (US Patent 7,088,706). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion, motivation or rationale either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Independent Claim 1 recites a method for determining a transmission path of datagrams in an IP network *from a source device to a destination device*, including “said source device receiving *from a network manager station*, a message...comprising a destination address and *a source address*...said source address being an IP address of the *network manager device*; and said source device sending a plurality of probe datagrams...each of said probe datagrams comprising...*as source address, the IP address of the network manager station*, such that replies...are sent back directly to the network manager station by the IP network device along the transmission path, bypassing said source device,” (emphasis added). As stated, the source device sends datagrams having a source address of the network manager station *rather than the*

actual source device itself, such that replies to the datagrams initially sent from the source device are directed to the manager station, thus *bypassing the source device*. Independent Claims 7 and 14 recite similar features of “said replies being sent back *directly to the network manager station* by the respective IP network devices along the transmission path, *bypassing said source device*,” and “means for receiving replies, if any, to said probe datagrams, said replies being sent back *directly to said computer system* by the respective IP network devices along the transmission path, *bypassing said source device*,” respectively. Sending the reply directly to the manager device enables a network manager to locate a break in the IP path between the source device and destination device without taking control of the source device, as described in Applicants’ specification.

Neither one of the cited references discloses these claimed features. Neither of these references teaches or suggests sending a response to a 3rd device such as a management station based on the substitution of the management station address as the source address by the source device itself. Pages 2 and 3 of the Office Action state that Munshi discloses transmitting a plurality of probe datagrams, wherein master nodes/transaction servers communicate with destination node/client via message packets/ping/probe datagrams. Indeed, Munshi appears to disclose the transmission of probes between nodes and an accompanying response. However, this is not what is claimed by Applicants.

As stated above, independent Claims 1, 7 and 14 each include the feature of sending replies not to the source of the datagram, but rather directly to the manager device, thereby bypassing the source device. Contrary to these claims, Munshi discloses a dummy packet function, “whereby a *master sends out a dummy packet* of information to a destination

transaction server and awaits a reply...The method initiates at step 400 wherein a probe is received at a node. At step 402 the receiving node then determines whether it is the destination transaction node to which the probe is being sent... *[if] the receiving node is the destination node, that node then sends a response to the adjacent node from which the probe was received* at step 406. When this response is received by the node which sent the probe, that sending node will then know the capacity of the particular path taken by the probe.”(Col. 9:25-50)(emphasis added). As clearly stated, Munshi discloses sending a packet to a destination, and the reply is sent right back to the source of the packet. Sending the reply back to the source of the packet is exactly the opposite of what is claimed by Applicants, i.e., as Munshi sends a reply to the source of the probe, Munshi obviously does not “bypass the source device” as stated in independent Claims 1, 7 and 14.

Applicants’ also note that the Zhang reference was not cited as disclosing the claimed features discussed above, and indeed, Applicants’ agree the Zhang reference does not disclose or otherwise remedy the shortcomings of the Munshi reference. As such, neither Munshi nor Zhang, whether considered alone or in combination, teaches or suggests the feature of sending replies back directly to the network manager station and thereby bypassing the source device, as recited in independent Claims 1, 7 and 14.

Accordingly, as Munshi and Zhang, either alone or in combination with one another, fail to disclose each and every element of Applicants’ independent Claims 1, 7 and 14 as required for a *prima facie* case of obviousness, a withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

In addition, Claims 2-6, 8-13, and 15-19 are each dependent either directly or indirectly from one or another of independent Claims 1, 7, and 14, discussed above. These claims recite additional limitations which, in conformity with the features of their corresponding independent claim, are not disclosed or suggested by the art of record. The dependent claims are therefore believed patentable. However, the individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

For all of the above reasons, the claim objections are believed to have been overcome placing Claims 1-19 in condition for allowance, and reconsideration and allowance thereof is respectfully requested.

The Examiner is encouraged to telephone the undersigned to discuss any matter that would expedite allowance of the present application.

The Commissioner is hereby authorized to credit overpayments or charge payment of any additional fees associated with this communication to Deposit Account No. 090457.

Respectfully submitted,

Date: November 7, 2007

By:

/alan m. weisberg/

Alan M. Weisberg

Reg. No.: 43,982

Attorney for Applicant(s)

Christopher & Weisberg, P.A.

200 East Las Olas Boulevard, Suite 2040

Fort Lauderdale, Florida 33301

Customer No. 68786

Tel: (954) 828-1488

Fax: (954) 828-9122

email: ptomail@cwiplaw.com